

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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S.B. 412
PRINCIPAL CLERK

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SENATE BILL DRS45193-NE-114

Short Title: Modify Food Establishment Rules.

(Public)

Sponsors: Senators Burgin, Lazzara, and Krawiec (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY THE RULES RELATED TO THE INSPECTION OF
3 ESTABLISHMENTS THAT PREPARE OR SERVE FOOD.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.(a)** Definitions. – "Reinspections Rule" means subsection (h) of 15A
6 NCAC 18A .2661 (Inspections and Reinspections) for purposes of this section and its
7 implementation.

8 **SECTION 1.(b)** Reinspection Rule. – Until the effective date of the revised
9 permanent rule that the Commission for Public Health is required to adopt pursuant to subsection
10 (d) of this section, the Commission shall implement the Reinspection Rule as provided in
11 subsection (c) of this section.

12 **SECTION 1.(c)** Implementation. – Upon request of the permit holder, or his or her
13 representative, a reinspection shall be made. In the case of a food establishment that requests an
14 inspection for the purpose of raising the alphabetical grade and that holds an unrevoked permit,
15 the regulatory authority shall make an unannounced inspection within five calendar days from
16 the date of the request. If no violations related to priority items or priority foundation items were
17 documented during the most recent inspection of the food establishment, the regulatory authority
18 shall not further lower an alphabetical grade during the pendency of a reinspection for the purpose
19 of raising an alphabetical grade.

20 **SECTION 1.(d)** Additional Rulemaking Authority. – The Commission shall adopt
21 a rule to amend the Reinspections Rule consistent with subsection (c) of this section.
22 Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section
23 shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted
24 pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General
25 Statutes. Rules adopted pursuant to this section shall become effective as provided in
26 G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided in
27 G.S. 150B-21.3(b2).

28 **SECTION 1.(e)** Sunset. – This section expires when permanent rules adopted as
29 required by subsection (d) of this section become effective.

30 **SECTION 2.(a)** Definitions. – "Frequency of Inspections for Risk Category IV Food
31 Service Establishments Rule" means the item addressing Risk Category IV Establishments in
32 subdivision (a)(1) of 10A NCAC 46 .0213 (Food, Lodging/Inst. Sanitation/Public Swimming
33 Pools/Spas) for purposes of this section and its implementation.

34 **SECTION 2.(b)** Frequency of Inspections for Risk Category IV Food Service
35 Establishments Rule. – Until the effective date of the revised permanent rule that the Commission
36 for Public Health is required to adopt pursuant to subsection (d) of this section, the Commission



1 shall implement the Frequency of Inspections for Risk Category IV Establishments Rule as
2 provided in subsection (c) of this section.

3 **SECTION 2.(c)** Implementation. – A local health department shall provide food,
4 lodging, and institutional sanitation and public swimming pools and spas services within the
5 jurisdiction of the local health department. A local health department shall establish, implement,
6 and maintain written policies which shall include the frequency of inspections of food, lodging,
7 and institutional facilities and public swimming pools and spas. At minimum, a Risk Category
8 IV Food Service Establishment shall be inspected once every four months per fiscal year. In
9 addition, a Risk Category IV Food Service Establishment shall undergo an educational visit once
10 per fiscal year. The educational visit shall not result in the issuance of a new grade or grade card.
11 During an educational visit, the local health department shall review all of the following with the
12 permit holder for the establishment:

- 13 (1) Any priority violations that occurred during the three previous inspections of
14 the establishment.
- 15 (2) The public health risk factors identified on the inspection form furnished by
16 the local health department.
- 17 (3) If applicable, any required Hazard Analysis Critical Control Plan.

18 **SECTION 2.(d)** Additional Rulemaking Authority. – The Commission shall adopt
19 a rule to amend the Frequency of Inspections for Risk Category IV Food Service Establishments
20 Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule
21 adopted by the Commission pursuant to this section shall be substantively identical to the
22 provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject
23 to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this
24 section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written
25 objections had been received as provided in G.S. 150B-21.3(b2).

26 **SECTION 2.(e)** Sunset. – This section expires when permanent rules adopted as
27 required by subsection (d) of this section become effective.

28 **SECTION 3.(a)** Definitions. – "Calculation of Rate of Compliance Rule" means
29 subdivision (a)(5) of 15A NCAC 18A .2901 (Restaurant and Lodging Fee Collection and
30 Inventory Program) for purposes of this section and its implementation.

31 **SECTION 3.(b)** Calculation of Rate of Compliance Rule. – Until the effective date
32 of the revised permanent rule that the Commission for Public Health is required to adopt pursuant
33 to subsection (d) of this section, the Commission shall implement the Calculation of Rate of
34 Compliance Rule as provided in subsection (c) of this section.

35 **SECTION 3.(c)** Implementation. – "Rate of compliance" means the number of
36 inspections and educational visits for food and lodging establishments conducted by the local
37 health department during the previous State fiscal year divided by the number of inspections and
38 educational visits mandated to be conducted by the local health department per State fiscal year
39 pursuant to G.S. 130A-249 and 10A NCAC 46 .0213, not to exceed a value of 1.

40 **SECTION 3.(d)** Additional Rulemaking Authority. – The Commission shall adopt
41 a rule to amend the Calculation of Rate of Compliance Rule consistent with subsection (c) of this
42 section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this
43 section shall be substantively identical to the provisions of subsection (c) of this section. Rules
44 adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the
45 General Statutes. Rules adopted pursuant to this section shall become effective as provided in
46 G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided in
47 G.S. 150B-21.3(b2).

48 **SECTION 3.(e)** Sunset. – This section expires when permanent rules adopted as
49 required by subsection (d) of this section become effective.

50 **SECTION 4.** This act is effective when it becomes law.